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Attorney for Plaintiff
MISTY DAWN SLATE

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

MISTY DAWN SLATE,

Plaintiff,

v.

MARTIN J. O'MALLEY, Commissioner
of Social Security,

Defendant.

Case No. 1:23-cv-00092-SKO

STIPULATION AND UNOPPOSED MOTION
FOR AWARD AND PAYMENT OF
ATTORNEYS FEES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT (28 U.S.C.
§2412(d))

(Doc. 19)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of \$7,478.72, under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d), 1920.

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the

Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Plaintiff's counsel, Francesco Benavides, pursuant to the assignment executed by Plaintiff.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Francesco Benavides, including the Law Offices of Francesco Benavides, may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Francesco Benavides to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: March 19, 2024

Law Offices of Francesco Benavides

By: /s/ Francesco Benavides
FRANCESCO P. BENAVIDES
Attorney for Plaintiff

Dated: March 19, 2024

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Social Security Administration

By: Una McGeehan*
UNA MCGEEHAN
Special Assistant U.S. Attorney
Attorneys for Defendant
(*Permission to use electronic signature
obtained via email on March 19, 2024).

ORDER

Based upon the parties' Stipulation (Doc. 19), **IT IS ORDERED** that pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412(d), attorney fees and expenses in the amount of \$7,478.72, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **March 20, 2024**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE